

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – T & A Dept. – Vizianagaram Dist. – Implementation of the orders of Hon'ble APAT dt. 14-11-2007 passed in O.A.No.5461/2006 and O.A.No.5462/2008 filed by Sri P. Prasad & Sri P. Mallesu – Orders – Issued.

FINANCE (Admn.III) DEPARTMENT

G.O. Rt. No.3717

Dt. 12-9-2008

Read the following:

1. Orders of Hon'ble APAT, dt. 14-11-2007 passed in O.A. No. 5461/2006 and 5462/2006 filed by Sri P. Prasad & Sri P. Mallesu.
2. Orders of Hon'ble High Court of A.P. dt. 10-6-2008 passed in W.P. No. 11837 of 2008 and 1838/2008.
3. S.L.P. filed by the Government before Hon'ble Supreme Court of India vide Diary No. 24319/2008.
4. C.A.No. 130 of 2008 and CA No.152/2008 before Hon'ble A.P.A.T.
5. Letter dt. 9-9-2008 from the G.P. for Finance, A.P.A.T.

ORDER:

The Dist. Tribal Welfare Officer, Parvathipuram vide his proceedings Rc.No.421/2003/A(TW) DT. 28-3-2005 had issued orders allowing Sri P. Prasad to claim regular time scale. In the said order it was stated that Sri P. Sivudu (Full Time contingent worker) was initially appointed as daily wage worker. Later he was allowed to draw remuneration @ Rs.290/- per month with admissible HRA and DA w.e.f. 2-4-1985 on completion of 5 years continuous service as on 1-4-1985 vide his office proceedings dt. 22-4-1985. **The individual expired on 11-5-1996** while in service working as Full Time Contingent Worker at TWAUPS, KD Colony. The individual was **posthumously converted from FTC worker post to Last Grade Service and granted time scale of LGS w.e.f. 18-6-1993 vide his procs. Dt.7-3-1998**. On expiry of Sri P. Sivudu on 11-5-1996, his son Sri P. Prasad was appointed as FTC worker vide his proceedings dt. 6-12-1996. After compassionate appointment of his son the services of Sri P. Sivudu were converted into Last Grade Service in 1998 by which time Act No.2 of 1994 came into force. Act 2 /94 was brought into effect from 25-11-1993 prohibiting all the contingent/irregular appointments. The case of compassionate appointment of Sri P. Mallesu s/o. P. Rajulu is also similar to the above case.

2. Basing upon the irregular orders issued by the Dist. Tribal Welfare Officer, Parvathipuram, the D.D.O. preferred the Bill for payment of arrear salary which was objected by the S.T.O., Kurupam, as according to the provisions in Act 2 /94, the persons who passed the Bill of the irregular appointments are also liable for penal action. Hence the STO, Kurupam raised objection for admitting the bills into audit.

3. Sri P. Prasad and Sri P. Mallesu stated to be Attenders, Tribal Welfare High School, Tikkabai, Vizianagaram Dist. have filed O.A.No.5461 of 2006 and O.A.No.5462 of 2008 before Hon'ble A.P.A.T. with a prayer for payment of arrears of salaries as per the orders of Dist. Tribal welfare Officer, Parvathipuram dt. 28-3-2005 and 31-8-2005. The following are the Respondents in the above O.A

1. The Government of Andhra Pradesh, rep. by its Secretary,
.Finance Department, Secretariat,
2. The Dist. Tribal Welfare Officer, Parvathipuram,
Vizianagaram Dist.
3. The District Treasury officer, Vizianagaram Dist.
4. The Sub-Treasury Officer, Kurupam, Vizianagaram Dist.
5. The Project Officer, ITDA, Parvathipuram, Vizianagaram Dist.

4. Government have observed that the services of Sri P. Sivudu which were converted into Last Grade Service in terms of G.O. (P) No. 259, Fin. & Plg. (FW.PRC.II) Dept., dt. 18-6-1993 in the year 1998, i.e., after his death is irregular since the said G.O. stands cancelled and consequently the appointment of his son as contingent worker in the year 1996 also stands irregular. By enactment of Act 2 of 1994 which came into force from 25-11-1993, all the earlier G.Os. shall have no effect. Therefore the orders issued in DTWO, Parvathipuram in his proceedings dt. 7-3-1998 as per the terms envisaged in the said G.O. are not valid. It is also observed that this case requires to be examined under Sections 6 and 13 of Act 2/94 for taking action on the responsible persons for such irregular appointments.

5. Even after filing of detailed counter, the Hon'ble Tribunal had allowed the O.A.No.5461 of 2006 and O.A. No. 5462 of 2006 by its common order dt. 14-11-2007.
6. The S.T.O., Kurupam has preferred Appeal before Hon'ble High Court by way of W.P. No.11837 of 2008 and W.P.No.11838/2008. The Hon'ble High Court dismissed the W.Ps. at the admission stage on 10-6-2008 and granted four weeks time for payment of arrears of salary to the respondents-applicants from the date of receipt of the order.
7. Government after careful examination of the matter, have taken a decision to file S.L.P. and filed S.L.P. in Hon'ble Supreme Court on 25-8-2008 vide Diary No. 24319. The said S.L.P. is yet to be listed.
8. Meanwhile the Contempt Applications filed by the applicants bearing C.A.No.130 of 2008 and C.A.No.152/2008 came up for hearing before Hon'ble APAT and adjourned to 18-8-2008, 19-8-2008, 26-8-2008, 9-9-2008 and finally posted for 17-9-2008 for production of the compliance report on implementation of the orders of Hon'ble APAT.
9. The G.P. for Finance, APAT in his letter 5th cited has stated that the above C.As. have come up for hearing on 9-9-2008 and the Hon'ble Tribunal was pleased to grant one week time i.e., upto 17-9-2008 for compliance. **The Hon'ble Tribunal has expressed serious view regarding the non-compliance of the order of the Hon'ble Tribunal in the said O.As.** Since the Hon'ble Supreme Court has not granted any stay till date and the insistence of the Hon'ble Tribunal for implementing the orders in the said O.As., it is just and necessary to implement the orders of Hon'ble APAT subject to outcome of the S.L.P. to avoid further complications in the said Contempt Applicants. Hence, the G.P. is of the opinion to implement the orders of Hon'ble Tribunal on or before 17-9-2008 and report compliance before 7-9-2008 so as to enable to produce the same before Hon'ble Tribunal.
10. Government after careful examination of the matter and also as advised by the Government Pleader for Finance, APAT in his letter 5th read above, hereby order for implementation of the orders of Hon'ble A.P.A.T. dt. 14-11-2007 passed in O.A.No.5461/2006 and 5462/2006 filed by Sri P. Prasad & Sri P. Mallesu subject to outcome of the S.L.P. filed by the Department vide Diary No.24319 of 2008 before the Hon'ble Supreme Court of India, in order to avoid further complications in the Contempt Applications.
11. The D.T.A., Hyderabad is directed to instruct the Deputy Director, Dist. Treasury, Vizianagaram/Sub-Treasury Officer, Sub-Treasury, Kurupam to admit the bills pertaining to the payment of arrears of salary as and when presented by the Drawing Officer concerned in respect of Sri P. Prasad and P. Mallesu who are the applicants in O.A.No.5461/2006 and 5462/2006 and in C.A. No.130/2008 and C.A.No.152/2008 before the Hon'ble A.P.A.T.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SAMEER SHARMA
SECRETARY TO GOVERNMENT (FP)

To
The Director of Treasuries & Accounts,
Hyderabad.
Copy to: The Deputy Director, Dist. Treasury,
Vizianagaram
The Sub-Treasury Officer, Sub-Treasury,
Kurupam, Vizianagaram Dist.

// Forwarded :: By Order //

SECTION OFFICER